



**U. S. Environmental Protection Agency  
OFFICE OF INSPECTOR GENERAL  
Nikki L. Tinsley, Inspector General**

## *Quarterly Report*

Third Quarter - Fiscal Year 2002

April 1 - June 30, 2002

### **Audit/Evaluation Activities**

#### **Needs Summarized for Non-Federal Superfund National Priority List Site Funding**

As requested by Congressmen Dingell and Pallone of the House Energy and Commerce Committee, we provided Congress with information on the funding needs of each non-federal Superfund National Priority List (NPL) site, so that cleanup activities can be initiated, continued, or expedited.

Midway through the third quarter of FY 2002, EPA Regions had requested about \$450 million for remedial actions at non-federal Superfund NPL sites. At that time, EPA Headquarters had allocated approximately \$224 million. For long-term response actions, the Regions had requested \$46.7 million, and \$33.2 million was distributed.

During our work, we asked Regional officials to identify sites where cleanups could have been initiated, continued, or expedited with additional funding. We also asked the Regions to describe activities affected and associated funding needs. They noted the following as examples:

Region 4 expressed concerns over two partially funded sites that will require \$6 million in additional funds in FY 2002 to maintain cleanup progress. Region 4 also said new starts are a bottleneck in the Superfund

pipeline, and several FY 2001 new starts were listed again in FY 2002.

Region 6 did not receive about \$56 million requested for three remedial action new starts and three non-time critical removal actions.

Region 7 has several mega-sites nearing the remediation phase that may be lengthened due to lack of funding. For example, the Region might stretch a 5-year, \$100 million cleanup over 10 years due to funding levels.

Region 8 could have begun work at two sites if the \$10 million requested had been allocated.

Regional officials also provided information on Headquarters prioritization and funding of ongoing cleanups and proposed new starts. Several of these officials suggested that the process used to evaluate ongoing work encourages scrutiny of high-cost cleanup actions to identify possible cost-saving opportunities. They also said the National Risk-Based Priority Panel Process for New Start Projects provided equitable treatment and should be continued.

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#### **Brownfields Performance Measures Can Be Improved** *(Report 2002-M-00016)*

The Brownfields program – a program that involves cleaning up for reuse abandoned, idle, or underutilized industrial or

commercial facilities with real or perceived environmental contamination – needs improved performance measures.

The *Small Business Liability Relief and Brownfields Revitalization Act* (Public Law 107-118), signed in January 2002, authorized \$200 million a year through fiscal 2006 to promote Brownfields redevelopment. Before this new law was enacted, we had begun an evaluation of the Brownfields Showcase Communities pilot program.

Current Brownfields performance measures do not contribute to understanding EPA's role in protecting human health and safeguarding the environment. EPA's fiscal 2003 Annual Performance Plan identifies Brownfields program performance measures as cumulative site assessments, jobs generated, and leveraging of cleanup and redevelopment funds. These measures generally do not indicate EPA's progress in reducing or controlling risk to human health and the environment, although Brownfields activities are linked to this objective in EPA's current strategic plan.

EPA can improve performance measures. EPA's data quality/management work group can review existing Brownfields performance measures and consider how provisions of the Brownfields Act and Government Performance and Results Act impact the quality, reporting, evaluation, and collection of Brownfields program data. Also, EPA could identify short-term or intermediate outcome measures of Brownfields program environmental benefits, since it may take years for EPA activities to have a noticeable impact on human health and the environment. Some possible short-term or intermediate measures EPA may consider adopting are: (1) acres of brownfields remediated, (2) acres of brownfields redeveloped, and (3) population protected by brownfields cleanup actions.

EPA concurred that action was needed to improve performance measures for the Brownfields program. The Agency will review

the measures that we suggested in addition to others that will be compiled for evaluation and subsequent implementation. The Brownfields Office has requested our continued involvement with their efforts to implement new performance measures.

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### **Evaluation of Air Emissions Credits Results in Reduced Credits and a Penalty Assessment in New Jersey**

*During an OIG evaluation of EPA's Air Emissions Open Market Trading Program, we discovered several misuses of air emissions credits generated in New Jersey related to the State's Open Market Emissions Trading (OMET) Program:*

#### **Power Plant Settlement**

Questions raised by the OIG regarding emission credits claimed by a New Jersey power plant operator encouraged EPA to include this issue in a settlement of a Clean Air Act enforcement case with company. The settlement will result in reduced emissions.

In early 2002, the U.S. Department of Justice, EPA, and the State of New Jersey announced they had reached agreement with PSEG Fossil LLC (PSEG) on a settlement of alleged New Source Review Requirement violations at two of the company's coal-fired power plants. The settlement, when approved by U.S. District Court, will retire about 18,600 tons of emissions credits from New Jersey's OMET Program. These credits have an estimated market value of about \$18 million. When the court approves the settlement and the emissions credits are retired, they will not be available for use to emit additional air pollution in the environment.

Federal and State governments alleged that PSEG made major modifications to coal-fired units at two of its power plants without installing necessary pollution controls and obtaining proper permits that would have

resulted in reduced emissions. PSEG had claimed excess OMET emissions credits from reduced emissions at these plants. These reductions would not be eligible for the program if the modifications were subject to New Source Review requirements.

In discussions with EPA Region 2 enforcement officials about the alleged PSEG violations, the OIG identified issues related to the validity of PSEG's OMET credits, their possible disposition, and the impact on EPA's ability to enforce against violators in future cases involving PSEG OMET credits. Region 2 decided to include the retirement of the OMET credits in settlement negotiations based on the issues raised by OIG.

### **\$140,000 Payment by Company**

Another instance of OMET misuse that we noted resulted in a \$140,000 payment being made to New Jersey by an electric company that had misused OMET credits to comply with nitrogen oxide emission limits mandated under the Clean Air Act.

During our evaluation, we noted a series of credit uses by Conectiv (Atlantic City Electric Company and Conectiv Atlantic Generation, Inc.). New Jersey's Administrative Code requires that only OMET credits generated during an ozone season may be used during ozone seasons. However, Conectiv had used non-ozone season OMET credits during ozone seasons from 1996 through 2000.

When the OIG found the credit misuses, we informed the New Jersey Department of Environmental Protection. The State examined these transactions, agreed that the misuses had occurred, and assessed a \$140,000 penalty against Conectiv. New Jersey and Conectiv reached agreement on an Administrative Consent Order resolving Conectiv's multiple alleged violations of environmental laws, including the OMET credit misuses. The Consent Order required Conectiv to pay the State \$1 million, which included the \$140,000 penalty for the OMET credit misuses. Although Conectiv admitted

no liability with respect to the OMET credit misuses asserted by the State, Conectiv paid the \$1 million to New Jersey on June 8, 2002.

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## **Investigative Activities**

### **Employees Sentenced for Conspiracy and Theft from Tribal Organization (Sentencing: Case 01-8001)**

Three employees of the Oglala Sioux Tribe payroll office of the Pine Ridge Reservation, South Dakota, were sentenced to prison terms on April 29, 2002, in U.S. District Court, for conspiracy and theft of money from a tribal organization. The three – Estelle Goings, Vonnie Goings, and Carol Vitalis – were each found guilty on February 5, 2002.

The three individuals were all employed in handling government grant monies awarded to the tribe, including more than \$2 million in EPA grants since 1997. A five-count indictment on April 25, 2001, charged them with devising a conspiratorial scheme that operated from 1996 through 1999 and resulted in the embezzlement of approximately \$196,000.

The funds were diverted from the tribe and converted to the three employees' own personal use under the guise of payroll and overtime advances.

Estelle Goings and Carol Vitalis were each sentenced to 27 months in prison, 2 years probation, and a \$500 special assessment. Vonnie Goings was sentenced to 15 months in prison, 2 years probation, and a \$500 special assessment. Restitution was ordered in the amount of \$99,411, with joint liability for repayment applicable to all three defendants.

*This investigation was conducted jointly by the EPA OIG, the Federal Bureau of Investigation the Department of Interior OIG, and the Department of Veterans Affairs OIG.*

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### **Fund Director Pleads Guilty to Conspiracy, Theft, and Embezzlement (Criminal Information: Case 02-2003)**

Raymond J. Robertson, Director of the Ironworkers Apprenticeship and Training Fund, Washington, D.C., plead guilty in U.S. District Court to a criminal information charging him with one count of conspiracy, one count of theft, and six counts of embezzlement.

The Fund periodically received federal program grants to establish or undertake certain skills and safety training, including \$1.2 million in EPA grant money. The information charged that Robertson, who the information indicated controlled the daily

operation of the Fund, conspired to conceal from the Fund's other trustees and contributing union members the nature and amount of thefts by Robertson and his daughter, Kerry J. Tresselt, from approximately April 1998 until January 1999. The Information further charged Robertson with embezzlement for using the Fund credit card for personal purchases.

Robertson plead guilty to all counts on March 26, 2002. Sentencing has been scheduled for July 2002.

*This investigation was conducted jointly by the EPA OIG; the Department of Energy OIG; and the Department of Labor Pension, Welfare, and Benefits Association.*

Questions concerning this update or requests for copies of OIG audit reports, reviews, or other documents should be directed to **Eileen McMahon**, U.S. Environmental Protection Agency, Ariel Rios Building (2441T), 1200 Pennsylvania Avenue, NW, Washington, DC 20460. **Telephone (202) 566-2546.**

If you are aware of or suspect any fraud, waste, or abuse in any EPA programs or operations, please call the OIG Hotline or the nearest Divisional Office of Inspector General. **OIG Hotline (202) 566-2476 or (888) 546-8740 .**

